

To: Wagner, Robert (DEQ)[WAGNERR1@michigan.gov]
From: Kamke, Sherry
Sent: Tue 9/30/2014 5:55:49 PM
Subject: FW: MI Senate Bill 791

Bob,

I just wanted to confirm that you received this. It came a day before we met with you in Lansing. I had meant to check with you when we were there but forgot.

Please just send an email back.

Thanks,

Sherry

From: Kamke, Sherry
Sent: Monday, September 22, 2014 8:20 AM
To: 'Wagner, Robert (DEQ)'
Cc: Kenney, Thomas; Siler, Sandy; Foskett, William
Subject: MI Senate Bill 791

Bob,

Thanks for sending us the draft of the Michigan Senate Bill 791 and the two page summary of its elements. Thanks also for meeting with us by phone on September 16th to discuss our reaction to it.

In summary, our review revealed no apparent show stoppers or “red flag” issues. We did not identify any areas that would prevent us from issuing a letter of acceptability. There are a few provisions that are in the draft legislation that may cause us to qualify our acceptance. Tom Kenney mentioned that this type of qualification has been done before and is not out of the

norm. Basically, our acceptability determination would only extend as far as the fund provides coverage. Qualifications depend on the specifics of each state package.

There are some areas that you may want to focus on as your agency develops your package.

- 1) It looks like the state removed some of the substantive definitions from Part 215 and cross-referenced the parallel provision in the Part 213 LUST provisions. It would ease the review process if the cross referenced Sections were included with the final review package. We will need to see them prior to making our final determination on the acceptability of this mechanism.
- 2) The state may need to provide more information to show that the definition of “Refined Petroleum” is consistent with the federal definition.
- 3) The state will need to provide additional supporting information to provide assurance that if the owner/operate is unable to pay the deductible, or in other situations like "acts of god" that the state will step in to cover that amount as suggested on page 2 of the Bill Summary. This is to ensure “first dollar” coverage exists under this program. .

Our acceptability determination will only extend to the coverage provided. So the letter, once issued, may reference the areas not covered by the state fund including the following:

- 1) Releases prior to the effective date of the bill are not covered.
- 2) Public utilities are not covered so we would have to qualify our acceptability determination to indicate that it doesn’t extend to ineligible entities. Sec. 21510(4), page 20.
- 3) Sec. 21510C(G), page 24, had an act of war type exclusion from coverage.

Finally, the legislation covers releases from aboveground piping and dispensers which is more broad than the federal requirements. We may need assurance that claims related to those releases aren’t going to cause solvency issues related to releases the federal regulations were intended to cover. Sec. 21510(2), page 19.

Sherry A. Kamke

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